

AMENDMENT AND RESPONSE TO OFFICE ACTION
U.S. Serial No. 10/775,561
Filed: February 10, 2004

REMARKS

In the office action dated 12/01/2005, the Examiner objected to claim 1 because the word "trochanter" was misspelled. This error has been corrected by the amendment above.

The examiner objected to claims 6, 17, and 32 as failing to provide proper antecedent basis for the claimed subject matter. MPEP § 608.01(o) provides:

The meaning of every term used in any of the claims should be apparent from the descriptive portion of the specification with clear disclosure as to its import; and in mechanical cases, it should be identified in the descriptive portion of the specification by reference to the drawing, designating the part or parts therein to which the term applies. (emphasis added)

Paragraph 3 of the detailed description states "According to the embodiment depicted in Fig. 1, the second wing comprises an incision locator 20." Fig. 1 in turn illustrates the second wing with an open or transparent portion comprising the incision locator. It is respectfully submitted that the reference to Fig. 1 showing an open or transparent portion 20 of the device 10 provides a proper antecedent basis for the subject matter claimed in claims 6, 17, & 32.

The examiner also objected to claims 6, 17, & 32 as being indefinite claiming that the statement "transparent portion of a surface" is unclear as to what portion of the device is transparent. Claims 6, 17, and 32 have been amended to clarify that the transparent portion is the portion making up the incision guide as depicted in the exemplary embodiment illustrated in Fig. 1. This

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has been made clear by modifying the claim to use the closed-ended language "consists of," which clarifies that the transparent portion of the surface is exactly the portion that is the incision guide. The meaning of "incision guide" is made clear from its use in the specification and its ordinary meaning to those of skill in the art.

Finally, the examiner rejected claims 1-9 under 35 U.S.C. 102(b) over *Graser*. *Graser* discloses a device for facilitating the angular cuts for Chevron osteotomies, a Youngswick osteotomy, or a Reverdin osteotomy. The Chevron, Youngswick, and Reverdin procedures described in *Graser* teach orthopedic procedures for treating pronounced bunion deformities. *Graser* does not teach or suggest a device for providing for proper placement of an incision when performing a total hip replacement surgery as required by the invention claimed in claims 1-9. Specifically, claims 1-9 all require at least one incision guide configured to indicate a proper incision location for a hip replacement surgical procedure. The location and orientation of the incisions needed for the orthopedic procedures described in *Graser* useful for treating bunion deformities are in no way similar or even suggestive of the location and orientation of the incision needed for performing a total hip replacement surgery. Because *Graser* does not teach the claim limitation of indicating a

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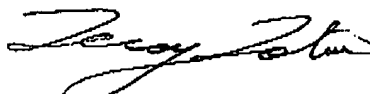
proper incision location for a hip replacement surgical procedure, it is respectfully submitted that claims 1-9 are allowable over the *Graso* reference.

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CONCLUSION

Applicant submits that the foregoing is a complete response to the Office Action identified above and believes the currently pending claims as modified above are now in condition for allowance. The Applicant respectfully solicits a notice to that effect. If there are any issues that can be addressed via telephone, the Examiner is asked to contact the undersigned at (404) 815-6483.

Respectfully submitted,



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